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Docket No.: HO-P02680US1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
William A. Zoghbi et al.

Application No.: 10/804,668

Confirmation No.: 8004

Filed: March 19, 2004

Art Unit: 1647

For: USE OF BNP DURING STRESS TESTING
FOR THE DETECTION AND RISK
STRATIFICATION OF INDIVIDUALS WITH
SUSPECTED CORONARY ARTERY
DISEASE

Examiner: C. M. Borgeest

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is submitted in response to the Election of Species Requirement dated December 29, 2005.

The Examiner states that the subject application contains claims directed to more than one species of the generic invention as follows:

Form of B-type natriuretic peptide (BNP):

I-a. BNP

I-b. pro-BNP

I-c. pre-pro BNP

Claims 1 and 23 are generic claims for the BNP species and Applicant elects the species I.a. BNP for prosecution. Applicant asserts that at least the following claims read on

the elected species: Claims 1, 3-14, 18-23, 25-36 and 40-44. Applicant requests that Claims 2 and 24 be held in abeyance until a generic claim is allowed, and that they then be allowed as dependent from the generic claim.

Additionally, the Examiner states that the subject application also contains claims directed to more than one species of the generic invention as follows:

Type of cardiac stress test:

- I-a. Treadmill or bicycle test
- I-b. Pharmacologic stress – adenosine
- I-c. Pharmacologic stress – dobutamine

Claims 1 and 23 are generic claims for the cardiac stress test species and Applicant elects the species I-a. treadmill or bicycle test for prosecution. Applicant asserts that at least the following claims read on the elected species: Claims 1, 3-14, 18-23, 26-36 and 40-44. Applicant requests that Claims 15-17 and 37-39 be held in abeyance until a generic claim is allowed, and that they then be allowed as dependent from the generic claim.

As noted by the Examiner, upon the allowance of a generic claim, Applicant will be entitled to consideration of claims to not more than a reasonable number of species in addition to the elected species, provided that all claims to each additional species are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.146.

An action on the merits of all the claims and a Notice of Allowance thereof are respectfully requested.

Our check in the amount of \$60.00 covering the fee set forth in 37 CFR 1.17(a)(1) is enclosed. The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 06-2375, under Order No. HO-P02680US1. A duplicate copy of this paper is enclosed.

This paper is believed to be a full and complete Response to the outstanding Office Action. However, the Examiner is invited to contact the undersigned attorney with any questions relating to the referenced patent application.

Dated: February 28, 2006

Respectfully submitted,

By Thomas D. Paul

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